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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,096	04/12/2004	Toshifumi Yasuda	2244.0190000/TGD/NRK	2193
26111 7590 01/03/2007 STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER ILAN, RUTH	
			ART UNIT 3616	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/822,096

Applicant(s)

YASUDA ET AL.

Examiner

Ruth Ilan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 18-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/22/06, 4/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Election/Restrictions***

2. Applicant's election without traverse of Invention I- Claims 1-17 and species I in the reply filed on 10/12/06 is acknowledged.
3. Claims 18-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "80" has been used to designate both the input and output shafts for the transmission means, see also page 20.
5. The drawings are objected to because the cut line for Figure 5 is not shown.
6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first pump unit main body accommodated in the case member, as claimed in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of claims 1 and 17 recite "outside" as the last word. It is not clear "outside of what?" Regarding claims 4-11, claim 4 recites "connected to the actuator" in line 3. However, the second pump is disclosed as connected to a second actuator. As such, there is not one to one correspondence between the claim limitations and the disclosed invention, and the scope is unclear.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**10.** Claims 1, 2, 4-6, and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant cited Samejima et al. (US 2003/0062212 A1.) Samejima et al. teaches (Figures 10 and 11) a power dividing device for a working vehicle including a case member (13) and an input shaft (unnumbered top shaft coupled to 13b by bevel gear), an offset PTO shaft (34) and a power transmission mechanism (gear set shown in Figure 10), and first and second pump units (53) which have a first pump shaft (53, see Figure 11) operatively connected to the input shaft (by 13b and bevel gear shown in Figure 10) and fluid connected to an actuator disposed outside of the case (14B see Figure 13.) Regarding claim 2, the unnumbered gear set, including the bevel gear, can reasonably be considered to be part of a "power transmission mechanism". Regarding claim 6, the pump units are identical. Regarding claim 10, Figure 11 shows the claimed limitations, including first and second pump cases (14) with proximal end walls (through which 53 is inserted) coupled to the case member (via 60) and first and second center

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sections (14b) which are coupled to the pump cases so as to close them. Regarding claim 11, the power device is between the driving source (12) and the work machine (7) and there are a pair of left and right driven wheels (4.) Regarding claims 12-15, a charge pump (30) PTO clutch and PTO brake mechanism are taught (see par. [0045-0046].) Regarding claim 16, the input shaft and PTO shaft are in the same location, width-wise. (see Figure 2.)

11. Claims 1, 2, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant cited Ishimaru et al. (EP 0 987 137 B1, see publication date of March 2000). Ishimaru et al. teaches (Figure 4) a power dividing device for a working vehicle including a case member (51), an input shaft (52) supported by the case member, a PTO unit (21) having a PTO shaft (21) that is offset. A power transmission mechanism ( various gears including 53, 54, 65, see description in paragraphs [0021, 0022, 0027 and 0031]) transmits power from the input shaft to the PTO shaft and a first pump unit (71) has a first pump shaft connected to the input shaft and is fluidly connected to an actuator located outside (motor 74.) Regarding claims 13 and 14), Ishimaru teaches the claimed clutch and brake arrangement (see 62, 66.)

12. Claims 1, 2, 12-14 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hasegawa et al. (US 6877,580.) Hasegawa et al (see Figure 2 and 6) teaches a power dividing device for a working vehicle including a case member (60) an input shaft (20a) supported by the case member, and a pto shaft (92) offset with respect to the input shaft. A power transmission mechanism (65, 91, 93) transmits power from the input shaft to the PTO shaft, and a first pump unit (310) with a first pump shaft is

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fluidly connected to an actuator disposed outside (70, 80.) Regarding claim 17, the pump unit is inside the casing. Regarding claim 12, there is a charge pump unit (70.) Regarding claims 13 and 14, there is a PTO clutch and brake (94,95.)

***Allowable Subject Matter***

13. Claims 3, and 7-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ishii et al., Osuga et al., Logus, and Ishimaru et al. teach power dividing devices of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673.

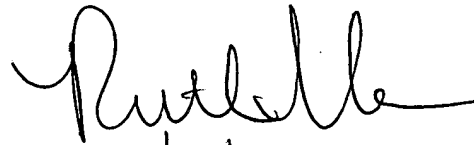
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ruth Ilan  
Primary Examiner  
Art Unit 3616



12/28/06

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